

REMARKS

Claims 1-11 are pending and have been restricted under 35 U.S.C. § 121 into the following groups:

Group I: Claims 1-2, 5-6 and 9 are directed to an isolated anti-NAC antibody, a therapeutic composition comprising an anti-NAC antibody, a method of treating a pathology by administering an anti-NAC antibody, and a method of modulating transcription in a cell by contacting a cell with an anti-NAC antibody;

Group II: Claim 3 is directed to a cell line producing a monoclonal anti-NAC antibody;

Group III: Claims 5-6 and 9 are directed to a therapeutic composition comprising a NAC protein or functional fragment thereof, a method of treating a pathology by administering a NAC protein or functional fragment, and a method of modulating transcription in a cell by contacting a cell with NAC protein or functional fragment;

Group IV: Claims 5-6 and 9 are directed to a therapeutic composition comprising a NAC modulating agent, and methods of treating a pathology by administering a NAC modulating agent;

Group V: Claims 7-8 and 10 are directed to methods of diagnosing cancer or a pathology associated with NAC comprising contacting a test sample with an anti-NAC antibody; and

Group VI: Claim 7 is directed to methods of diagnosing a pathology associated with NA comprising contacting a test sample with a NAC associated protein (NAP).

The Examiner requests that one of the groups of claims be elected for examination. Although the Restriction Requirement is traversed for the reasons set forth below, Applicants elect the claims of Group IV, claims 5, 6 and 9, for examination.

The Restriction Requirement is traversed with respect to the division of the claims of Group IV from the claims of Group I. While the claims of Groups I and IV are patentably distinct, it is submitted that a thorough search of the claims of either group will likely reveal art relevant to the examination of the claims of the other group. This is further indicated by the

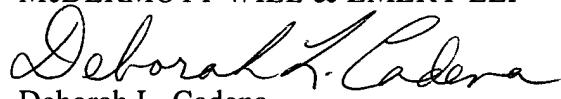
classification of the claims of Groups I and IV in the same class (class 530 and 424). In particular, Group IV is directed to compositions comprising a NAC modulating agent, and Group I is directed to anti-NAC antibodies, which the specification teaches can be used to modulate the activity of NAC polypeptides and are therefore exemplary NAC modulating agents (page 36, paragraph [00110]). Thus, a search of the claims of Group IV will, of necessity, reveal information relevant to the examination of the claims of Group I and, therefore, division of the claims into these groups would result in duplicative searches. Therefore, examination of the claims of Group IV with the claims of Group I together should not be an undue burden on the Examiner.

Applicants elect the claims of Group IV, claims 5, 6 and 9, for examination. Applicants respectfully request that the Restriction Requirement be reconsidered and that the claims of Group IV be examined with the claims of Group I. The Examiner is invited to call the undersigned agent if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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